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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/028,727	12/28/2001	Howard Scott Forstrom	0918.0026C	4109
27896	7590	08/10/2005	EXAMINER	
EDELL, SHAPIRO & FINNAN, LLC 1901 RESEARCH BOULEVARD SUITE 400 ROCKVILLE, MD 20850			SZYMANSKI, THOMAS M.	
			ART UNIT	PAPER NUMBER
			2134	

DATE MAILED: 08/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

**Application No.**

10/028,727

**Applicant(s)**

FORSTROM ET AL.

**Examiner**

Thomas Szymanski

**Art Unit**

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 December 2001.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 February 2002 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/28/01 &amp; 5/28/04</u> . | 6) <input type="checkbox"/> Other: _____  |

### **DETAILED ACTION**

1. Claims 1-34 have been examined.

### ***Specification***

2. The lengthy specification has not been checked to the extent necessary to determine the presence of all possible minor errors. Applicant's cooperation is requested in correcting any errors of which applicant may become aware in the specification.
3. The applicant is requested to review the specification and update the status of all co-pending applications made mention of, replacing attorney docket numbers with current U.S. application or patent numbers when appropriate. References to U.S. applications or patents should make it clear as to what the number refers (e.g. U.S. Patent No. #), instead of listing only the number.

### ***Drawings***

4. The drawings are objected to because Drawing 6A as corrected is not clear as to what the correction is without the previously incorrect drawing the applicant should white out any sign of the improper line instead of marking it with another line. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be

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canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Objections***

5. Claim 34 is objected to because of the following informalities: Line 1 of claim 34 contains the grammatical error "An destination", this should be corrected to read "A destination". Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 25 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

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8. Claim 25 recites the limitation "The method" in line 1 of claim 25. There is insufficient antecedent basis for this limitation in the claim.

***Claim Rejections - 35 USC § 102***

9. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 1 - 6 and 8 – 34 are rejected under 35 U.S.C. 102(a) as being anticipated by Stone et al European Patent No. 1098522.

11. Regarding Claim 1: generating a watermark based on an attribute of a source unit (Fig 1, pg 2 lines 5-6, lines 11-14) the watermark within the system of Stone et al is generated based upon attributes of the source and represented as either directly or indirectly by a code generated based on the attributes.

Combining the watermark with the data stream (pg 2 line 8)

Transmitting the combination (pg 3 lines 9-10, fig 1 p717)

12. Regarding Claims 2 and 5: The attribute corresponds to a capability (Table 1, Fig 1, pg 2 lines 5-6, lines 12-14) The different parts of the label represent many different capabilities of the system.

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13. Regarding Claims 3, 6, and 9: the attribute is a type of voice recorder, source unit revision indicator, source unit identifier (Table 1, pg 2 lines 5-6) The separate parts of the label identify all of these features.

14. Regarding Claim 4: Watermark is generated based on a plurality of attributes (Table 1) Since the watermark is generated based on the label of table 1 it can be seen that many attributes are correlated therewith.

15. Regarding Claim 8: Compressing the data stream (pg 3 lines 9-10) Stone et al states that the utilizer 717 implements the watermarked data stream by transmission or any other possible means. Through the transmission of such a format the data would be compressed as provided for by Stone et al.

Detecting capability of source unit (Table 1) The details of the source of the data are provided to the destination via the affixed information.

Generating a signature based on capability and applying as a watermark (Fig 1, pg 2 lines 5-6, lines 12-14) as the applicant has acted as their own lexicographer to define a signature as defined in lines 7-8 of page 5 of the specification Stone et al provides for placement of the attributes within the data as a manner of watermarking the data thus according to MPEP 7.34.02 the claim is anticipated.

16. Regarding Claim 10: applying the signature to masked non-critical fields (pg 7 lines 16-19, 37-40, 47-54) Stone et al provides for embedding the watermark within the data so that it may be imperceptible as such not modifying any critical fields of data, further Stone et al states that the watermark can be embedded within a header or data fields of the given stream. The methods used to insert the watermark by way of it being

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imperceptible constitute a form of masking the data within the stream by applying the bits in a mask format to the data stream.

17. Regarding Claim 11: watermark is contained in the multimedia content (pg 7 lines 16-19) As stated by Stone et al the watermark may be contained within the multimedia content.

18. Regarding Claim 12: Digital watermark (pg 7 line 11) The watermark is within the application of digital media thus it must be of a digital nature.

19. Regarding Claims 13-21: A method of receiving the watermarked data and determining the attributes of said data (Fig 1, pg 2 lines 11-14) As is necessary within any such system for the basic functionality to be possible there is a means for the reception and use of the produced data within which the system functions as necessary within all basic features such as determination and negotiation of the protocols necessary for the produced data as is necessary for the decryption and implementation to be viable, otherwise the system would not function upon the initial method.

20. Claims 22-34 are an apparatus implementation of claims 1-21 and are rejected on the same grounds as claims 1-21.

### ***Claim Rejections - 35 USC § 103***

21. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

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invention was made to a person having ordinary skill in the art to which said subject matter pertains.

Patentability shall not be negated by the manner in which the invention was made.

22. Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Stone et al European Patent No. 1098522 as applied to claim 1 above, and further in view of Kari et al Publication No. WO 97/48212.

23. Regarding Claim 7: Stone et al teaches a system for the watermarking of a compressed data stream based upon attributes but fails to teach the use of a particular algorithm for which identification is transmitted with the watermark.

24. However, Kari et al teaches a system (pg 4 lines 4-21) for the transmission of compressed data with an identifier for identification of one of a plurality of possible algorithms used to compress the given data stream.

25. It is desirable within any system to provide for means of increased processing speed and efficiency while maintaining a high level of security. The implementation of such a system so as to avoid bottlenecks (Kari et al pg 1 lines 30-35) and maintain security is desirable.

26. It would have been obvious to one of ordinary skill in the art at the time of the applicant's invention to combine the system of Kari et al with that of Stone et al for the advantages of improved transmission time and performance so as to avoid possible bottlenecks that may be encountered while maintaining the necessary security of the system through the implementation of a plurality of possible compression algorithms.



**Conclusion**

27. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant is reminded that in amending in response to a rejection of claims, the patentable novelty must be clearly shown in view of the state of art disclosed by the references cited and the objections made. Applicant must show how the amendments avoid such references and objections. See 37 CFR 1.111(c).

28. Inquiries concerning this communication or earlier communications from the examiner should be directed to Thomas M. Szymanski who can be reached at (571) 272-8574. The examiner's normal working schedule is between the hours 8:00am – 4:30pm (EST), Monday – Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gregory Morse, can be reached at (571) 272-3838. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

29. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JL

David Y. Jung  
Primary Examiner

*[Handwritten signature]*  
7/2/08